

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

The Peoples Gas Light And Coke Company)	
)	
Proposal to implement Riders SVT)	ICC Docket No. 01-0470
and AGG, and revise Rider 2, Terms and)	
Conditions, and Table of Contents.)	

NOTICE OF FILING

PLEASE TAKE NOTICE that on this date, January 28, 2002, we filed with the Chief Clerk of the Illinois Commerce Commission the enclosed People of the State of Illinois' Brief on Exceptions and Exceptions to the Administrative Law Judge's Proposed Order via e-docket to the Chief Clerk of the Illinois Commission at 527 East Capitol Avenue, Springfield, Illinois 62794-9280.

Erika D. Edwards
Assistant Attorney General

CERTIFICATE OF SERVICE

I, Erika D. Edwards, an Assistant Attorney General, hereby certify that caused to be served the above identified documents upon all active parties of record on the attached service list by United States Mail, first class postage prepaid on January 28, 2002, and/or by electronic mail to all active parties.

Erika D. Edwards
Assistant Attorney General

Erika D. Edwards
Illinois Attorney General's Office
100 West Randolph Street, 11th Floor
Chicago, Illinois 60601
(312) 814-5609

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PEOPLE OF THE STATE OF THE STATE OF ILLINOIS’
BRIEF ON EXCEPTIONS AND EXCEPTIONS TO
THE ADMINISTRATIVE LAW JUDGE’S PROPOSED ORDER

NOW COME the People of the State of Illinois, by James E. Ryan, Attorney General of Illinois, (“The People”) and hereby file their Brief on Exceptions and Exceptions to the Administrative Law Judge’s Proposed Order on Rehearing in the above-entitled matter.

I. Introduction

This docket was initiated by the Peoples Gas Light and Coke Company (“Peoples Gas” or “Peoples”) to expand its Choices For You pilot program. Peoples Gas initiated its Choices For You pilot program in 1997, originally offering it only to a portion of its small volume commercial and industrial customers. Since its commencement in 1997 this program has had several changes over the years. These changes include making the pilot program permanent and allowing all small volume transportation customers to participate. With this filing Peoples is seeking to expand its program to include residential customers. These residential customers would be eligible to participate in this program on a phased-in basis.

Under its traditional bundled sales service, Peoples Gas provides both distribution and natural gas supply service. Under the Choices for You Program, Peoples Gas continues to provide distribution service, but consumers obtain natural gas supply service from unregulated

third-party suppliers (GCI EX 1.0 at 7). The Administrative Law Judge’s Proposed Order (“PO”) allows Peoples to expand its pilot program to residential customers on a phased in basis. The People of the State of Illinois hereby submit the following exceptions to the PO.

II. Exception 1

The PO Incorrectly Approves Peoples’ Proposal for Establishing the Storage Component of the Required Daily Delivery Quantity

The PO correctly concludes that :

“The Company’s proposal allows the amount of gas withdrawn from and injected into storage to vary from month to month but requires that Suppliers inject or withdraw the same amount of gas on each day within a given month and deprives Suppliers and their customers of much of the daily flexibility that storage can provide.” (PO at 39.)

Both Staff and GCI have expressed concerns regarding the lack of storage flexibility SVT Suppliers will have under the Company’s proposal. Although the PO acknowledges this problem, it incorrectly accepts the Company’s proposal. (*Id.*)

SVT Suppliers are assigned and pay for a share of Peoples interstate pipeline storage. (GCI Ex. 1.0 at 8.) Despite this fact, the Company proposes to solely control the amount of gas to be injected into or withdrawn from Peoples Gas’ interstate pipeline storage arrangements and on-system storage facilities by third-party suppliers. (*Id.*) Pursuant to the Company’s proposal, suppliers will not be entitled to utilize the daily injection and withdrawal flexibility provided by storage to serve their customers, even though they pay for this flexibility.

GCI has recommended that Peoples Gas establish monthly storage inventory, and daily injection and withdrawal parameters consistent with its operational and contractual storage constraints. (GCI Ex. 1.0 at 16) “As long as suppliers operate within these parameters, their daily use of storage should not be restricted.” (*Id.*) The PO acknowledges that GCI’s proposal is not

“without merit” but does not endorse it because it lacks specificity. (PO at 39) The PO overlooks the fact that only the Company can provide the specificity required to determine the parameters suggested by GCI. The Company has exclusive control over its system and therefore it is the Company that must initially propose monthly parameters. Determining the specific parameters for monthly storage inventory and daily injections could be determined by the company and reviewed by intervening parties within a month following the issuance of the Final Order in this case. (TR. at 295)

Consistent with the arguments made above the People hereby submit the following modifications to the Final Order at page 39:

To provide more flexibility, Staff proposed that the Company be required to develop a method for determining the RDDQ that provides for heating degree-day sensitive fluctuations in storage withdrawals while GCI’s proposal would require the Company to establish monthly storage inventory and daily injection and withdrawal parameters that are consistent with the Company’s operational and contractual storage constraints. While these Staff’s proposals are is not without merit, the Commission cannot adopt this ~~either~~ recommendation at this time due to the lack of specificity provided by ~~both Staff and GCI~~. Therefore, the Commission concludes that ~~the Company~~ GCI’s proposal for establishing the storage component of the RDDQ should be approved at this time. The Company and intervening parties are hereby ordered to participate in workshops immediately following the issuance of this order to determine the parameters suggested by GCI. The next section of this Order, which pertains to daily and monthly delivery tolerances, will further address the issue of SVT Supplier flexibility in meeting the RDDQ.

III. Exception 2

The PO Incorrectly Finds the \$0.50 Per Therm Non-Critical Day Charge Appropriate

The PO accepted the \$0.50 per therm non-critical day charge. The People take exception to this finding. The charge proposed by the Company is imposed on Suppliers that do not adhere to the proposed daily and monthly delivery imbalance tolerances. (GCI Ex. 1.0 at 19) “Under normal operating conditions, suppliers which under-deliver or over-deliver by more than 3 percent of the RDDQ are assessed a penalty charge of 50 cents per therm for each therm beyond the 3 percent tolerance level, plus an imbalance charge reflective of the market price of gas for the Chicago citygate on that day.” (GCI Ex. 1.0 at 19.)

The \$0.50 delivery imbalance charge is both unfair and unreasonable. “Peoples Gas does not impose similar daily delivery imbalance tolerance[s] and charges on its larger transportation customers.” (GCI Ex.1.0 at 20) This discrepancy in treatment between SVT Suppliers and larger transportation customers is unfair and unjustified.

Furthermore, the imbalance charge is unreasonable and not necessary. The Company already has a less onerous option available if under delivery occurs. As suggested by GCI witness Mierzwa “..the Company could simply purchase city-gate gas supplies to replace the diverted quantities, and receive full compensation for the city-gate quantities purchased” (GCI Ex. 2.0 at 3.) Suppliers currently must reimburse the Company at the city-gate rate. Reimbursement at the citygate rate is 100 percent compensation and an adequate remedy to this problem. The additional \$0.50 charge, therefore, only operates as an onerous and unreasonable inhibitor of competition.

Consistent with the arguments above, the People propose the following modifications be made to the Final Order at page 50:

The Commission finds the \$0.50 per therm non-critical day charge proposed by the Company to be appropriate unreasonable. ~~While both~~

~~Staff and GCI object to this charge, the Commission believes that the charge is reasonable, given that the 10% tolerance level adopted in this order will result in SVT Suppliers not being charged for over-deliveries and under-deliveries on non-critical days unless those over-deliveries or under-deliveries exceed the 10% tolerance level.~~

The Commission, however, also rejects the Company's proposal to assess a \$0.50 per therm charge for over-deliveries on critical supply shortage days. The Company has failed to adequately explain why such a charge to a supplier is appropriate when the supplier's action benefits the Company. For the same reason, the Commission rejects the Company's proposal to assess a \$0.50 per therm charge for under-deliveries on critical supply surplus days.

Conclusion

WHEREFORE, for the reasons set forth above, The People of the State of Illinois respectfully request that the Commission modify the Final Order in accordance with the arguments made in this Brief on Exceptions and adopt the Proposed Language contained herein.

Respectfully submitted,

Dated: January 28, 2002

By: _____
ERIKA D. EDWARDS
Assistant Attorney General
Public Utilities Bureau
100 West Randolph Street
11th Floor
Chicago, Illinois 60601
(312) 814-5609
eedwards@atg.state.il.us

SERVICE LIST
ICC DOCKET NO. 01-0470

William Showtis
Administrative Law Judge
Illinois Commerce Commission
527 East Capitol Avenue
Springfield, Illinois 62701

Sherwin Zaban
Administrative Law Judge
Illinois Commerce Commission
160 North La Salle Street
C-800
Chicago, Illinois 60601-3104

Terrence L. Barnich
Attorney
Morrill & Associates
203 North La Salle Street
16th Floor
Chicago, Illinois 60601

Katherine A. Donofrio
Vice Presiden
130 East Randolph Drive
22nd Floor
Chicago, Illinois 60601

Leijuana Doss
Assistant State's Attorney
Cook County State's Attorney's Office
69 West Washington Street
Suite 700
Chicago, Illinois 60602

David I. Fein
Attorney
Piper, Marbury, Rudnick & Wolfe
203 North La Salle Street
Suite 1800
Chicago, Illinois 60601-1293

Edwad C. Fitzhenry
Attorney
Lueders, Robertson & Konzen
1939 Delmar Avenue
P. O. Box 735
Granite City, Illinois 62040

Gerard T. Fox
Attorney
130 East Randolph Drive
23rd Floor
Chicago, Illinois 60601

Craig G. Goodman
President
3333 K Street NW
Suite 425
Washington, DC 20007

James Hinchliff
Attorney
130 East Randolph Drive
23rd Floor
Chicago, Illinois 60601

Andrew G. Huckman
Office of General Counsel
Illinois Commerce Commission
160 North La Salle Street
C-800
Chicago, Illinois 60601-3104

Karen M. Huizenga
Attorney
MidAmerican Energy Company
106 East Second Street
P. O. Box 4350 Davenport, IA 52808

Charles Iannello
Illinois Commerce Commission
527 East Capitol Avenue
Springfield, Illinois 60601-3104

Gary A. Jeffries
625 Liberty Avenue
Pittsburgh, PA 15222

Ronald D. Jolly
Assistant Corp. Counsel
City of Chicago
30 North La Salle Street
Suite 900
Chicago, Illinois 60602-2580

Robert Kelter
Citizens Utility Board
208 South La Salle Street
Chicago, Illinois 60601

Mary Klyasheff
Attorney
130 East Randolph Drive
23rd Floor
Chicago, Illinois 60601

John Madziarczyk
Northern Illinois Gas Company
1844 Ferry Road
Aurora, Illinois 60563

Stephen J. Mattson
Attorney
Mayer Brown & Platt
190 South La Salle Street
Chicago, Illinois 60603-3441

Carla S. Meiners
MidAmerican Energy Company
P. O. Box 657
666 Grand Avenue
Des Moines, IA 50303-0657

Becky Merola
Director
6418 Wynwright Drive
Dublin, OH 43016

Thomas Modaff
Nicor Energy LLC
1001 Warrenville Road
Suite 550
Lisle, Illinois 60532-4306

Stephen S. Morrill
Attorney
Morrill & Associates
203 North La Salle Street
16th Floor
Chicago, Illinois 60601

Michael A. Munson
Attorney
Law Office of Michael A. Munson
8300 Sears Tower
233 South Wacker Drive
Chicago, Illinois 60606

Angela O'Brien
Attorney
Mayer, Brown & Platt
190 South La Salle Street
Chicago, Illinois 60603

Katie Papadimitriu
Illinois Commerce Commission
160 North La Salle Street
C-800
Chicago, Illinois 60601-3104

Stacey L. Rantala
Attorney
3333 K Street NW
Suite 425
Washington, DC 20007

Conrad Reddick
City of Chicago
30 North La Salle Street
Suite 900
Chicago, Illinois 60602

Steven G. Revethis
Office of General Counsel
Illinois Commerce Commission
160 North La Salle Street
C-800
Chicago, Illinois 60601-3104

Susan L. Satter
Assistant Attorney General
Illinois Attorney General's Office
100 West Randolph Street, 11th Floor
Chicago, Illinois 60601

Marie Spicuzza
Assistant State's Attorney
Cook County State's Attorney's Office
69 West Washington Street
Suite 700
Chicago, Illinois 60602

